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Notice of Allowability

Application No.

10/774,817

Examiner

Faye Boosalis

Applicant(s)

SCHMIDT ET AL.

Art Unit

2884

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to submission of 11 October 2006.
2. ☒ The allowed claim(s) is/are 10-27.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S STATEMENT OF REASONS FOR ALLOWANCE

Comment on Submissions

1. This communication is responsive to submissions 11 October 2006.

Drawings

2. The drawing was received on 11 October 2006. The replacement drawing is acceptable.

Allowable Subject Matter

3. Claims 10-27 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding independent claim 1, the prior art does not disclose or fairly suggest a test instrument for therapeutic radiation comprising: processing circuitry comparing at least one flux signals to benchmark flux values to provide an indication of improper operation of the measured radiation source wherein the benchmark flux values are automatically selected based on the energy range indicated by the energy signal.

The examiner notes that while it is known in the art of a test instrument for therapeutic radiation comprising: a set of spaced radiation flux detectors (1-10) providing flux signal (i.e. signal values); at least one radiation energy-detector providing an energy signal; a storage system (i.e. readout unit) for storing benchmark flux values (i.e. reference value from the initial machine calibration or predetermined setting of energy, field size and radiation dose) associated with a set of energy ranges; and processing circuitry comparing at least one of the flux signals to the benchmark flux

Art Unit: 2884

values of an energy range corresponding to the energy signal to provide an indication of any improper operation of a measured radiation source (see for example Westerlund et al – US 4,988,866-- col. 2, lines 50-68 and col. 3, lines 1-10), the prior art does not fairly suggest benchmark flux values automatically selected based on the energy range indicated by the energy signal, to indicated any improper operation of measured radiation source when comparing flux signals to the benchmark flux values.

Regarding independent claim 19, the prior art does not disclose or fairly suggest a test instrument for therapeutic radiation comprising: a housing providing opposed first and second faces, holding flux-detectors between first and second face, whereby electrons may be measured with the housing in a first orientation by exposing the radiation flux-detectors through the first face, measuring photons by flipping the housing to a second orientation to expose the detector through the second face and flipping the housing orientation to the first or second surface whereby the third face includes a display indicating radiation type.

The examiner notes that while it is known in the art of a test instrument for therapeutic radiation comprising: a set of spaced radiation flux detectors (1-10) providing flux signal (i.e. signal values); at least one radiation energy-detector providing an energy signal; a storage system (i.e. readout unit) for storing benchmark flux values (i.e. reference value from the initial machine calibration or predetermined setting of energy, field size and radiation dose) associated with a set of energy ranges; and processing circuitry comparing at least one of the flux signals to the benchmark flux values of an energy range corresponding to the energy signal to provide an indication of

any improper operation of a measured radiation source (see for example Westerlund et al – US 4,988,866-- col. 2, lines 50-68 and col. 3, lines 1-10), the prior art does not fairly suggest measuring electrons with the housing in the first orientation, as stated supra, by exposing the radiation flux-detectors through the first face and measuring photons by flipping the housing to the second orientation, as stated supra, to expose the detector through the second face and flipping the housing orientation to the first or second surface whereby the third face includes the display indicating radiation type.

The remaining claims 11-18 and 20-27 are allowable based on their dependency.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faye Boosalis whose telephone number is 571-272-2447. The examiner can normally be reached on Monday thru Friday from 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Porta can be reached on 571-272-2444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

Art Unit: 2884

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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A handwritten signature in black ink, appearing to read 'D. Porta', is positioned above the printed name and title.

DAVID PORTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2884